

FACSIMILE COVER SHEET



UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII
Voice Contact Number (808)
Fax Number (808)

United States Courthouse PJKK Bldg.
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Honolulu, Hawaii 96850

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DATE SENT: 03-6-03

Number of pages including cover sheet 6

EXHIBIT H

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ORIGINAL

MAR 6 2002

at 3 o'clock and 40 min

WALTER A. Y. H. CHINN CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY,

) CIVIL NO. 01 00446 SPK LEK

Plaintiff,

)

vs.

)

FLEMING COMPANIES, INC., aka
FLEMING FOODS, INC., aka
FLEMING,
DOE INDIVIDUALS 1-50 AND
DOE PARTNERSHIPS,
CORPORATIONS AND OTHER
ENTITIES 1-20,

) SPECIAL VERDICT FORM

Defendants.

)

)

)

)

SPECIAL VERDICT FORM

A. FREIGHT CONTROL SYSTEM SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Freight Control software attached to Exhibit 221?

Yes No

If "YES" go to next question.

If "NO", skip to section B.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Freight Control software.

Yes

No

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Freight Control software.

Yes

No

If "NO" skip to section B.

If "YES" go to next question.

4. Was the infringement of the Freight Control software copyright willful?

Yes

No

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Freight Control System software?

\$ 98,250.00

B. CRYSTAL REPORTS SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Crystal Reports software attached to Exhibit 222?

Yes

No

If "NO", skip to section C.

If "YES" go to next question.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Crystal Reports software.

Yes

No

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Crystal Reports software.

Yes

No

If "NO" skip to section C.

If "YES" go to next question.

4. Was the infringement of the Crystal Reports software copyright willful?

Yes

No

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Crystal Reports software?

C. FLEMINGPO.EXE SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the FlemingPO.exe software attached to Exhibit 223?

Yes X

No _____

If "YES" go to next question.

If "NO", skip to the end.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the FlemingPO.exe software.

Yes X

No _____

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the FlemingPO.exe software.

Yes _____

No X

If "NO" skip to the end.

If "YES" go to next question.

4. Was the infringement of the FlemingPO.exe software copyright willful?

Yes _____

No _____

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of FlemingPO.exe software?

Please sign and date this Special Verdict Form.

Jury Foreperson

Kathy L. Miller

Bea Cee

Mary P. O'hara

Carol Ho Akemoto

Acta

Mark Shumard

John M. Gandy

3/6/03